

Qwest will pay \$20M over Arizona misdeeds Legal settlement includes state-record fine of \$9M

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PHOENIX - Qwest Communications agreed to pay more than \$20 million in penalties and restitution, including what is considered the largest fine against a utility company in Arizona history.

The settlement agreement reached Wednesday finds that Qwest was guilty of wrongful conduct.

The phone company was ordered to pay a record \$9 million in penalties and to pay competitors \$11.65 million in damages. In addition, Qwest agreed to make no legal challenges to the settlement agreement.

"This deal is done," said Arizona Corporation Commissioner Jeff Hatch-Miller, adding that the settlement clearly states that Qwest was acting inappropriately. "We nailed them for that. We fined them a huge amount. This is quite a victory for the state."

The agreement approved by the Corporation Commission 4-0, with Commissioner Mike Gleason absent, relates to the state's investigation into four key issues:

- ° Qwest's failure to file interconnection agreements made with select competitors.
- ° The company's failure to implement discounted wholesale rates in a timely manner.
- ° Interference with state records used in allowing Qwest to enter the long-distance market.
- ° And the impact of those three issues on the competitive market as a whole.

The fine is the largest utilities-related penalty levied by the commission, said Stephen Ahearn, director of the Arizona Residential Utility Consumer Office. Qwest had paid the state \$3.75 million in settling a consumer-fraud lawsuit brought by the Attorney General's Office.

Wednesday's agreement relates to conduct as recent as June 2002, when Qwest continued to charge higher wholesale rates to some of its customers after regulators had set a discounted rate. Most of the conduct took place in 2000 and 2001, including agreements with other phone companies that were not filed with the state and were found to hinder competition.

Qwest Arizona President Pat Quinn said the settlement allows the company to look forward and provides a fair resolution for consumers.

"I'm happy to see Qwest come to the plate and would like to think that they are sincere in how they will handle their business in Arizona in the future," said Dan Pozefsky, attorney for the Residential Utility Consumer Office.

Pozefsky began examining Qwest's conduct in 2002 after finding the company was being investigated for similar misconduct in Minnesota. The Minnesota settlement of \$25 million is being appealed by Qwest. Pozefsky said people in Minnesota were watching the Arizona vote Wednesday.

"I think it validates what's been going on in Minnesota. I think there are other states that are watching it, too," he said.

The \$9 million penalty will go to the state's general fund. But commissioners said certain words in the agreement - that Qwest willingly and intentionally violated state and federal law - were more important than the money.

"It is imperative that we hold their feet to the fire and make it clear to the world that what they did was willful and wrong and illegal," said Commissioner Kris Mayes.

Commissioner Bill Mundell said the commission acted in the public's interest.

"Culpability is more important than the settlement amount," he said.

Jon Poston, consumer coordinator for Arizonans for Competition in Telephone Service, said, "I think Qwest will be very cautious about a repeat of that kind of activity."

Tom Pelto, an AT&T vice president, said, "The ACC has joined a select few state commissions that have been willing to take Qwest to task rather than turning a blind eye to their misdeeds."